

Initial Delinquency Appearance Advisement

(C.R.S. 19-2-706 and Colorado Rules of Juvenile Procedure Rule 3)

The court is going to start today by giving an advisement of rights for juveniles charged with delinquent acts, crimes, and probation or deferred adjudication violations. Both the juvenile charged and his or her parents should listen and pay attention to this advisement as it outlines the rights a juvenile has with regards to his or her case.

Juveniles charged:

You have the right to remain silent and not talk about your case. If you give up your right to remain silent, anything you say to anyone can be used against you in court.

You have the right to have a lawyer. If you cannot afford to hire a lawyer and you qualify under the Supreme Court guidelines, the court will appoint a lawyer to represent you free.

If you are in custody, you may have the right to bail as determined by the court. (C.R.S. 19-2-508 & 19-2-509)

If you are charged with a delinquent act or crime, that is a Class 1,2, or 3 felony, a felony which carries with it mandatory sentencing upon conviction (C.R.S. 19-2-705 & 19-2-516), a crime of violence (C.R.S. 18-1.3-406(2)), or a sexual offense (C.R.S. 18-3-400 – C.R.S. 18-3-417), you have the right to a preliminary hearing to determine if there is probable cause to believe you committed the delinquent act or crime charged. (C.R.S. 19-2-705) In all other felony cases, you do not have a right to a preliminary hearing unless you are in custody. (C.R.S. 19-2-705 (1.5)(b))

If the court does not set a preliminary hearing in your case you will be able to have a pre-trial conference to discuss your case.

If you are charged with a delinquent act or crime, you have the right to plead not guilty and to have a trial in front of me a juvenile court magistrate, or a district court judge. Only those juveniles charged with a crime of violence and those juveniles alleged to be aggravated juvenile offenders can demand a jury trial. (C.R.S. 19-2-107) Any juvenile who requests a jury trial is deemed to have waived the sixty (60) day deadline for adjudication but remains within the six (6) months. (C.R.S. 19-2-107 (4))

If you are charged with a crime of violence as defined by the Colorado Revised Statutes (C.R.S. 18-1.3-406) it will be in front of a jury of six (6). If you are alleged to be an aggravated juvenile offender or if you are ultimately charged as an adult in adult district court it will be in front of a jury of twelve (12). (C.R.S. 19-2-601)

At a trial, you have the right to be presumed innocent. You do not have to prove anything. To adjudicate or convict you of the delinquent act or crime charged, the district attorney would have to prove beyond a reasonable doubt that you are guilty of the charges against you.

At a trial, you or your lawyer has the right to cross examine or question the witness that is against you. You have the right to testify or not testify on your own behalf. No one can force you to testify or not to testify. If you testify, the prosecution will be allowed to cross examine or question you. If you do not testify, the jury shall be instructed about such right. (C.R.S. 19-2-802)

You have the right to present evidence on your own behalf. If you have prior felony adjudications or convictions, the prosecution is entitled to ask you about them and thereby disclose it to the court and/or jury which can and will be instructed to consider it only as it bears upon your credibility. You have the right to subpoena or force witnesses to appear and testify for you. You have the right to appeal to a higher court for any decision that was made at the trial. (C.R.S. 19-2-802)

You may also waive your right to trial and plead guilty. Any plea of guilty must be knowing, voluntary and not the result of undue influence or coercion on the part of anyone, including your parents. (Juvenile Procedure Rule 3)

Parents and juveniles are advised at this time, that there is a mandatory restraining order in effect against you until this case is finalized, terminated or until further order of the court. You are ordered to be restrained from harassing, molesting, intimidating, retaliating against or tampering with any witness to or victim of the delinquent act or crime charged. In addition to being charged with additional charges, if you violate this order, you may be punished for contempt of court and sentenced to detention for forty-five (45) days as charged with a violation of a restraining order. (C.R.S. 19-2-707)

If you are convicted of the charges against you or you plead guilty several things can happen.

You can be placed on formal probation for a period up to two (2) years. As part of probation, you could be sentenced to up to forty-five (45) days in detention (C.R.S. 19-2-925), and be fined up to \$300.00 (C.R.S. 19-2-917). If you are out of control of your parents, you can

be placed in a group home, foster home, or state hospital as a condition of probation. You can also be required to be in school full time, and may be ordered to get your G.E.D. and have full time employments.

You can be sentenced to the Department of Youth Corrections, which is prison for kids, for a period up to seven (7) years with minimum mandatory parole. (C.R.S. 19-2-921) You can be ordered to pay fines and costs as well as restitution in all your matters.

If you are eighteen (18) years of age or older at the time you are sentenced for a delinquent act or crime you can be sentenced to the county jail or community correction, in some cases for up to two years. (C.R.S. 19-2-908)

In some circumstances, your case may be transferred to the criminal division of the district court where you may be tried as an adult and subject to adult sentencing guidelines. (C.R.S. 19-2-518)

You may have the right to petition the court to expunge your records, but a person may file a petition with the court for expungement of his or her record only once during any twelve (12) month period. (19-1-306)

Petitions for expungement may be obtained from the clerk of the court and no filing fee is required. (C.R.S. 19-1-306)

Parents need to understand that at least one parent or guardian must be present at all court appearances. (C.R.S. 19-2-109 (6)) Should a parent or guardian fail to appear at all court appearances this court will issue a bench warrant for your arrest. Parents also need to understand that pursuant to the protective orders of the court and the sentencing powers of the court you as parents can be ordered into drug and alcohol treatments individual and family therapy and other treatments modalities that are deemed appropriate by the court. (C.R.S. 19-2-113 (2)(b)(I-VII)). Parents also need to understand that the court can order them to complete community service work or attend a parental responsibility program as well as pay restitution in amounts of up to \$25,000. (C.R.S. 19-2-919)